

**COMMONWEALTH OF VIRGINIA
WASTE MANAGEMENT BOARD
CONSENT ORDER
ISSUED TO
BACOVA GUILD, LTD.
VAR000003541**

Section A: Purpose

This is a consent order issued under the authority of §§ 10.1-1182 *et seq.* and §§ 10.1-1402, 10.1-1405, and 10.1-1455 of the Code of Virginia (1950), as amended, by the Virginia Waste Management Board to Bacova Guild, Ltd. to resolve certain alleged violations of environmental laws and/or regulations at the Bacova Guild, Ltd. facility in Low Moor, Virginia.

Section B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. “Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Bacova” means Bacova Guild, Ltd., a Delaware corporation registered in Virginia.

6. “Order” means this document, also known as a consent order.
7. “Regulations” means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* (“HWMR”). The specific provisions of Title 40 of the Code of Federal Regulations (“CFR”) cited herein are incorporated by reference at 9 VAC 20-60-260, 9 VAC 20-60-261, 9 VAC 20-60-262, 9 VAC 20-60-264, 9 VAC 20-60-265, 9 VAC 20-60-268, and 9 VAC 20-60-270.

Section C: Findings of Fact and Conclusions of Law

1. The Bacova plant in Low Moor screen-prints designs on carpets, rugs, and floor mats. Bacova generates cleaning solvent waste (D001), used oil, and universal waste. Bacova is registered with EPA and the Department as a large quantity generator of hazardous waste and has been assigned EPA hazardous waste generator ID number VAR000003541.
2. On July 22, 2002, Department staff conducted a hazardous waste compliance inspection at Bacova. The Department reported the results of the inspection to Bacova in a Notice of Violation (“NOV”) dated July 31, 2002. The NOV alleged that Bacova violated 40 CFR 262.11 (hazardous waste determination), 40 CFR 262.34(a) (accumulation time), 40 CFR 262.34(c)(1)(ii) (hazardous waste container labeling), 40 CFR 264.173(a) (open container), 40 CFR 264 (training requirements), and 40 CFR 264 Subpart D (contingency plan requirements), 40 CFR 279.22(c)(1) (used oil container labeling), 9 VAC 20-60-1495.A (universal waste requirements), 40 CFR 268 (land disposal restrictions).
3. During a phone conference on August 9, 2002 and in a letter hand-delivered to the Department on August 16, 2002, Bacova explained that the alleged hazardous waste determination and accumulation time violations each involved only one drum. The August 9 letter also documented return to compliance for all of the alleged violations except the training and contingency plan requirements.
4. Bacova documented return to compliance for the training and contingency plan requirements in a letter dated September 16, 2002.

Section D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it pursuant to Code § 10.1-1455, orders Bacova voluntarily agrees to pay a civil charge of \$2,590.00 within thirty days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be by check, certified check, money order, or cashier's check payable to “Treasurer of Virginia” and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, VA 23240

The payment shall include Bacova's Federal Identification Number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

Section E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Bacova, for good cause shown by Bacova, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations pertaining to the facility specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, Bacova admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Bacova declares that it has received fair and due process under the Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the Virginia Waste Management Act, Code § 10.1-1400 *et seq.*, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding, or to judicial review of, any action taken by the Board or the Director to enforce this Order.
5. Failure by Bacova to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

7. Bacova shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, or other act of God, war, strike, or other such occurrences. Bacova must show that the circumstances resulting in the noncompliance were beyond its control and were not due to a lack of good faith or diligence on its part. Bacova shall notify the Director and the Director of the Department's West Central Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director and the Director of the Department's West Central Regional Office within 24 hours of the commencement of the condition causing or anticipated to cause the delay or noncompliance shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and Bacova. Notwithstanding the foregoing, Bacova agrees to be bound by any compliance date that precedes the effective date of this Order.
10. This Order shall terminate upon receipt by the Department of the funds specified in Section D herein. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Bacova from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
11. By the signature of an authorized official below, Bacova voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2002.

Robert G. Burnley, Director
Department of Environmental Quality

Date

Seen and Agreed to: _____
Bacova Guild, Ltd.

The foregoing instrument was acknowledged before me on _____

by _____, _____, on behalf of Bacova Guild, Ltd.,
(name) (title)

in the County/City of _____, Commonwealth of Virginia.

Notary Public

My Commission expires: _____